

9/15/2017 9:24:10 AM  
17CV39930

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF CLACKAMAS

**AIRPORT CONCESSION CONSULTING  
SERVICES LLC**, a limited liability  
company, and **PATRICK GLEASON**, an  
individual,

Plaintiffs,

v.

**SENTINEL INSURANCE COMPANY,  
LTD.**, a foreign corporation,

Defendant.

Case No. \_\_\_\_\_

**COMPLAINT**

**(Breach of Contract; Duty to Defend)**

**JURY TRIAL DEMANDED**

**Prayer: \$142,500.00**

**Fee Authority: ORS 21.160(1)(c)**

**NOT SUBJECT TO MANDATORY  
ARBITRATION**

Plaintiffs Patrick Gleason ("Gleason") and Airport Concession Consulting Services  
LLC ("ACCS"), for their complaint, do hereby allege as follows:

**PARTIES**

1.

ACCS was at all material times a limited liability company with its principal place of  
business in Damascus, Oregon.

2.

At all material times, Gleason was an Oregon resident and sole owner, member and  
manager of ACCS.

///

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2  
3.

Defendant Sentinel Insurance Company Ltd. ("Sentinel") is an insurance company domiciled in Connecticut with its principal place of business in Hartford, Connecticut. At all material times, Sentinel was doing business in the State of Oregon and issued the policies of insurance discussed further below to ACCS in Oregon.

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8  
**JURISDICTION AND VENUE**

4.

This Court has jurisdiction over Sentinel because Sentinel transacted insurance in Oregon within the meaning of the Oregon Insurance Code, ORS 731.146, and because the claim giving rise to this lawsuit arose out of the risks for which Sentinel provided coverage within Oregon.

5.

Venue lies with this Court under ORS 14.080 because Sentinel conducts regular sustained business activity in Clackamas County, Oregon and the events that gave rise to this cause of action occurred in whole or in part within Clackamas County.

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18  
**THE POLICIES**

6.

Sentinel issued a series of successive insurance policies to ACCS, which, among other times, were in effect from September 25, 2010 to September 25, 2013 (hereinafter collectively referred to as "the Policies"). The Policies were purchased by ACCS while ACCS maintained its principal place of business in Oregon.

7.

At all relevant times, Gleason was a member and manager of ACCS and an insured under the Policies with respect to the conduct of ACCS's business.

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1 8.

2 The Policies include the following insuring agreement:

3 We will pay those sums that the insured becomes legally obligated to pay as  
4 damages because of "bodily injury", "property damage" or "personal and  
5 advertising injury" to which this insurance applies. We will have the right and  
6 duty to defend the insured against any "suit" seeking those damages.

7 9.

8 The Policies include the following definitions:

9 "Personal and advertising injury" means injury, including consequential "bodily  
10 injury", arising out of one or more of the following offenses: \* \* \*

11 d. Oral, written or electronic publication of material that slanders or libels a  
12 person or organization or disparages a person's or organization's goods,  
13 products or services; \* \* \*

14 h. Discrimination or humiliation that results in injury to the feelings or  
15 reputation of a natural person.

16 **THE UNDERLYING LAWSUIT**

17 10.

18 Diego Concession Group LLC ("DCG") filed a lawsuit in the Superior Court for the  
19 State of California, County of San Diego entitled *Diego Concession Group LLC v. San Diego*  
20 *County Regional Airport Authority; Robert H. Gleason*, Case No. 37-2012-00088083-CU-BT-  
21 CTL ("Underlying Lawsuit"). Gleason and ACCS were added as defendants to the Underlying  
22 Lawsuit.

23 11.

24 In the Underlying Lawsuit, DCG alleged that the San Diego County Regional Airport  
25 Authority ("Authority") issued various Requests for Proposal ("RFPs") for food service and  
26 ///

1 retail concessions. DCG further alleged that DCG timely submitted responses to some of the  
2 RFPs.

3 12.

4 DCG alleged in the Underlying Lawsuit that the Authority retained ACCS and Gleason  
5 to analyze information submitted by the bidders, including DCG's bid packages.

6 13.

7 DCG further alleged in the Underlying Lawsuit that ACCS and Gleason misrepresented  
8 DCG's qualifications by making false statements to the Authority that DCG was not financially  
9 qualified, did not properly respond to the Authority's request for financial information, and was  
10 "nonresponsive" to follow up inquiries.

11 14.

12 As a result of these alleged false representations, DCG claimed that it was deprived of  
13 any chance of being the winning bid for the various RFPs.

14 15.

15 DCG filed claims against ACCS and Gleason in the Underlying Lawsuit for, among  
16 other things, negligent misrepresentation, trade libel, intentional interference with prospective  
17 economic advantage, negligent interference with prospective economic advantage, and unfair  
18 competition. ACCS denied the allegations and ultimately prevailed at trial against DCG.

19 16.

20 ACCS and Gleason tendered the Underlying Lawsuit to Sentinel and requested that  
21 Sentinel defend them against the claims alleged by DCG in the Underlying Lawsuit.

22 17.

23 Sentinel wrongfully refused to defend ACCS and Gleason.

24 18.

25 As a result of Sentinel's wrongful denial of ACCS's and Gleason's tender of defense,  
26 ACCS and Gleason were forced to retain defense counsel to defend against the claims alleged

1 in the Underlying Lawsuit and incurred no less than \$142,500 in legal fees and expenses.

2 19.

3 ACCS and Gleason have not been reimbursed for the legal fees and expenses incurred  
4 in the Underlying Lawsuit.

5 **FIRST CLAIM FOR RELIEF**

6 **(Breach of Contract – Breach of Duty to Defend)**

7 20.

8 Paragraphs 1-19 are incorporated herein as if expressly alleged.

9 21.

10 The Policies are valid and enforceable contracts that obligated Sentinel to defend ACCS  
11 and Gleason against the allegations and claims alleged in the Underlying Lawsuit.

12 22.

13 ACCS and Gleason performed and/or satisfied all obligations and conditions precedent  
14 required by the Policies, except any that were waived and/or excused by Sentinel, or as to  
15 which performance was prevented or no longer required due to Sentinel's conduct.

16 23.

17 Pursuant to the Policies, Sentinel was required to defend ACCS and Gleason from the  
18 claims alleged in the Underlying Lawsuit and pay for ACCS's and Gleason's legal fees and  
19 expenses incurred in their defense.

20 24.

21 Sentinel breached the Policies by refusing to defend ACCS and Gleason in the  
22 Underlying Lawsuit.

23 25.

24 Sentinel's breach of its contractual obligations under the Policies has caused ACCS and  
25 Gleason damages in an amount to be proven at trial, but not less than \$142,500.

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26.

Payment due under the Policies was either ascertained or readily ascertainable by Sentinel by the date each invoice was provided to ACCS and Gleason from their retained defense counsel in the Underlying Lawsuit. ACCS and Gleason are entitled to prejudgment interest from that time forward at the rate of 9% per annum.

27.

Sentinel is liable for ACCS's and Gleason's reasonable attorney fees incurred herein pursuant to ORS 742.061.

WHEREFORE, Plaintiffs respectfully pray for judgment in their favor and against Defendant as follows:

1. Damages in an amount to be proven at trial, but not less than \$142,500;
2. Pre-judgment interest at the rate of 9% per annum;
3. Reasonable attorney fees incurred herein pursuant to ORS 742.061;
4. All other costs and disbursements incurred in this action;
5. Post-judgment interest at the rate of 9% per annum; and
6. All other relief that the Court deems just and equitable.

DATED this 15th day of September, 2017.

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